

MEMORANDUM

November 21, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: MILDRED K. O'LINN, ESQ.
Manning & Marder

NARBEH BAGDASARIAN
Deputy County Counsel
Health Services Division

RE: Rosa Maria Ortega, et al. v. County of Los Angeles
U.S. District Court, Case No. CV 05-2246 JFW

DATE OF
INCIDENT: April 5, 2004

AUTHORITY
REQUESTED: \$700,000.00

COUNTY
DEPARTMENT: LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

CLAIMS BOARD ACTION:

☐ Approve

☐ Disapprove

☐ Recommend to Board of
Supervisors for Approval

_____, Chief Administrative Office
ROCKY ARMFIELD

_____, County Counsel
JOHN F. KRATTLI

_____, Auditor-Controller
MARIA M. OMS

on _____, 2006

SUMMARY

This is a recommendation to settle for \$700,000, the wrongful death lawsuit brought by the survivors of Gustavo Ortega, who died at LAC+USC Medical Center ("LAC+USC") after being released from the Los Angeles County Sheriff's Department ("LASD") jail.

LEGAL PRINCIPLES

The County is liable for the failure of its staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

SUMMARY OF FACTS

On March 1, 2004, Gustavo Ortega (born on October 15, 1953) was arrested for drinking in public; he also had three outstanding misdemeanor arrest warrants. On March 4, 2004, and while under the custody of LASD, a Medical/Mental Health Intake Screening was conducted, and Mr. Ortega reported a history of diabetes. On March 5, 2004, personnel conducted a physical examination of Mr. Ortega and noted that he had cellulitis (deep tissue inflammation) on his right toe, and that he had been an insulin-dependent diabetic for 15 years.

On March 8, 2004, Mr. Ortega was transferred to LAC+USC. He underwent an amputation of the first two right toes on March 15, 2004. Since his amputation wound was not healing properly, on March 24, 2004, Mr. Ortega underwent a transmetatarsal amputation (an amputation at a higher level than before) of the right forefoot. On March 30, 2004, Mr. Ortega was discharged from LAC+USC, arrived at the jail's Inmate Reception Center ("IRC") and was transferred to the IRC clinic. The LAC+USC discharge record indicated that Mr. Ortega should receive 10 units of insulin in the morning and in the evening.

On March 31, 2004, LASD medical personnel examined Mr. Ortega, discontinued the order for insulin and placed him on oral diabetic medications.

On April 1, 2004, Mr. Ortega went to court and was ordered to be released from jail. He returned to jail to be medically cleared for release. At around 9:42 p.m. on that day, one of the LASD nurses gave Mr. Ortega his diabetic medications. This appears to be the last time that Mr. Ortega received medications for his diabetes. At about 11:00 p.m., the LASD medical personnel cleared Mr. Ortega for release. Although Mr. Ortega was on diabetic medication, he was not given any medications at the time of his release.

Mr. Ortega was escorted in a wheelchair to the IRC and released with crutches shortly after midnight on April 2, 2004. He remained at the IRC lobby for three days, until April 5, 2004.

At around 7:30 a.m., on April 5, 2004, when asked by one of the LASD deputies to leave the IRC lobby, Mr. Ortega tried to sit up on the bench but then fell back. Deputies noticed that Mr. Ortega was pale, skinny, disoriented, and very ill; he could barely speak and appeared lethargic. One of the deputies noticed blood in Mr. Ortega's mouth.

Instead of immediately calling the paramedics, the deputies began calling several local hospitals to see if any of the hospitals could send an ambulance to pick up Mr. Ortega. Finally, one of the deputies called the paramedics. The paramedics arrived at 11:12 a.m., more than 3.5 hours after Mr. Ortega fell from the bench.

Mr. Ortega arrived at the LAC+USC emergency department at 11:43 a.m. At about 4:30 p.m., Mr. Ortega became non-responsive. CPR measures were started but were unsuccessful. Mr. Ortega was pronounced dead at 5:08 p.m. on the same day.

DAMAGES

If this matter proceeds to trial, the claimants will likely seek the following:

Pain and Suffering	\$ 600,000.00
Loss of Services	\$ 20,000.00
Funeral Expenses	\$ 5,000.00
Punitive Damages	\$ 500,000.00
Attorney's Fees and Costs	\$ <u>500,000.00</u>
TOTAL	\$1,625,000.00

The proposed settlement includes:

Pain and Suffering (for both plaintiffs)	\$ 250,000.00
Attorneys Fees	\$ 275,000.00
Costs of Litigation	\$ <u>175,000.00</u>
TOTAL	\$ 700,000.00

STATUS OF CASE

Plaintiffs initially brought a lawsuit only against the County of Los Angeles, but subsequently amended the complaint to name many individuals from within the LASD. Plaintiffs asserted causes of action for deliberate indifference and negligence. The current trial date has been vacated pending approval of this settlement.

This matter involved several legal and medical issues surrounding the care and treatment rendered to Mr. Ortega. In addition to the normal discovery in such matters, it was necessary to retain medical experts to review the care rendered by the County personnel.

Expenses incurred by the County of Los Angeles in the defense of this case through November 21, 2006, are attorneys fees of \$186,462.74 and \$56,219.46 in costs.

The total cost to the County of Los Angeles as a result of this settlement is as follows:

Indemnity (Settlement Amount)	\$700,000.00
County Attorneys Fees and Costs	<u>\$210,023.75</u>
TOTAL	\$910,023.75

EVALUATION

Experts will be critical of the jail personnel's failure to provide Mr. Ortega with diabetic medications at the time of his release on April 1, 2004, and the LASD personnel's delay to summon medical assistance on April 5, 2004 when the personnel noticed that Mr. Ortega needed medical attention.

We join with our private counsel, Mildred K. O'Linn, Esq., and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$700,000.

APPROVED:


RICHARD K. MASON
Assistant County Counsel

NB:bdv

Attachment